

**Sierra County Fire and Emergency Services Administrative Ordinance
Ordinance No. 11-008**

**An Ordinance
Providing for the Administration of the County Fire Departments**

Adopted by the Board of County Commissioners

On

Effective

PREAMBLE

WHEREAS, NMSA 1978, Section 3-18-1 provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1, have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, Sierra County wishes to provide for the administration of the Sierra County Fire Departments to assign responsibilities for coordinated fire prevention, fire suppression, and other emergency services including but not limited to, mutual aid and cooperation with fire departments or other emergency services of government, to establish a policy for implementation of fire department and emergency services plans and programs, and to promulgate of rules, regulations, medical protocols and standard operating procedures for the operation of the departments including rules and regulations for volunteer personnel.

NOW THEREFORE, BE IT ORDAINED that the Board of County Commissioners adopts the following Rules and Regulations establishing consistent, basic policies and practices concerning relations between the County and its volunteer firefighters:

ARTICLE 1: SHORT TITLE

This ordinance may be cited by number or as the Sierra County Fire and Emergency Services Administrative Ordinance.

ARTICLE 2: REPEALER

Any other ordinance, in conflict with this ordinance is hereby repealed to the extent of such conflict.

ARTICLE 3: PURPOSE

The purpose of this ordinance is to provide for the administration of the Sierra County Fire Departments, assigning responsibilities for coordinated fire prevention, fire suppression, and other emergency services including but not limited to, mutual aid and cooperation with fire departments or other emergency services of government, establishing policy for implementation of fire department and emergency services plans and programs, promulgation of rules, regulations, medical protocols, operational activities, training, suppression and standard operating procedures for the operation of the departments.

The organization, administration and operation of the Sierra County Fire Departments is herein established and governed by the Sierra County Board of County Commissioners.

ARTICLE 4: DEFINITIONS

A. Department Chief. A volunteer duly elected by the membership of the fire department, approved by the Board, and who shall function as such at the pleasure of the Board of County Commissioners and the County Manager, as representative of the Board of County Commissioners, who is responsible for the day-to-day operational activities of the fire department's county-owned fire station(s), apparatus, equipment and supervision of the volunteer personnel, in accordance with adopted rules and regulations.

B. Fire Departments. Sierra County has eight (8) volunteer fire departments: Las Palomas, Poverty Creek, Winston/Cloride, Lakeshore, Arrey/Derry, Caballo, Monticello, Hillsboro.

C. Sierra County Chief's Association. An association composed inclusive of all the fire department' volunteer fire chiefs from the unincorporated regions of Sierra County.

D. County Fire Marshall. Nothing herein shall prohibit the Board of County Commissioners from establishing the position of a County Fire Marshall by resolution, and assigning the County Fire Marshall such responsibilities and obligations deemed warranted by the Board of County Commissioners.

ARTICLE 5: AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES

Joint resolutions, memoranda of understanding, joint powers agreements and mutual aid agreements between Sierra County and other units of government pertaining to fire prevention, fire suppression, emergency medical services and other emergency services as well as dispatching of the same, now in force or being adopted subsequent to passage of this ordinance, are hereby expressly authorized when drawn or made in conformity to the intent and meaning of this ordinance and upon approval by the Sierra County Commission.

All contracts or agreements by individual fire departments must be approved by the Sierra County Commission.

ARTICLE 6: POLICY

A. The quality of life of the citizens of Sierra County is enhanced by the vigorous administration of effective fire prevention, fire suppression, emergency medical services and other emergency services administered by Sierra County.

B. The Sierra County Fire Departments are organized through the efforts of fire department volunteers to deliver quality emergency services to the citizens of Sierra County.

C. Providing these services is consistent with the constitutionally prescribed functions of government to provide for the health, safety and welfare of the general public.

D. The Sierra County Fire Departments are administered by the combined efforts of the Department Chiefs, who are responsible for monitoring, overseeing, directing and coordinating all activities of their respective Department. Those fire department boundaries presently existing are hereby ratified, subject to the continued power of the State Fire Marshall's and Board of County Commissioners to change such boundaries in the future. Other fire departments may be added as deemed necessary without amendment of this ordinance.

F. Sierra County recognizes that some private, non-profit, corporations perform useful functions in support of the Fire Departments. Private corporations have no authority to manage the operations of the Departments, or any part thereof. The services provided by the Sierra County Fire Departments are exclusively governmental activities.

ARTICLE 7: COOPERATION WITH PRIVATE, NON-PROFIT, AUXILIARY ORGANIZATIONS

In consideration of the services provided by the private, non-profit, auxiliary organizations in support of the Departments, the Department Chiefs, after obtaining the approval of the County Manager, are authorized to enter into agreements with such organizations to allow the use of fire stations by such organizations for meetings, fund raising and social events, subject to the requirements of County policy dealing with the use of public buildings or facilities, so long as such meetings and events are for the sole benefit of the individual Fire Department. Any such fund raising activities shall clearly state that the funds raised Are to be used for the benefit of the department; maintained in a separate line item with the department budget.

ARTICLE 8: RESPONSIBILITIES AND AUTHORITIES OF THE DEPARTMENT CHIEF

A. Each individual fire department shall have a Department Chief who shall be a volunteer duly elected by the membership of the fire department and who shall function as such at the pleasure of the Board of County Commissioners and the County Manager, as the representative of the Board of County Commissioners.

B. The Department Chief is responsible for managing the day-to-day operational activities of the fire district county owned stations, apparatus and equipment.

C. The Department Chief shall be responsible for supervising assigned department volunteer personnel.

D. The Department Chief shall be responsible for the expenditure of funds allocated to the fire district upon approval of the County Commission.

E. No Department Chief shall have the authority to commit Sierra County to the expenditure of any funds.

F. All revenue sources characterized as public funds require Commission approval prior to expenditure. The County Manager, or his/her designee, acting as the representative of the Board of County Commissioners, shall review such requests for compliance with all applicable statutes, ordinances, and rules and regulations, prior to obtaining the approval of the Board of Commissioners.

G. The Department Chiefs shall be responsible for the maintenance and protection of those licenses and authorities held by the County, as required by State and Federal regulators, for the delivery of emergency services and shall set forth the rules, regulations and reporting standards as required to maintain and protect those licenses and authorities.

H. The Department Chief, under the direction of the County Manager, shall be responsible for staffing, recruitment, training, budgeting and all other administrative matters for the department and for the development and improvement of the department to meet local, state and federal standards.

I. The Department Chief shall be responsible for implementation and enforcement of fire and safety codes and any ordinance designating the Department as the enforcement agency as now in effect or hereafter adopted by Sierra County.

J. The Department Chief is authorized to commit fire department personnel, equipment and resources, wholly or in part, to emergency fire protection and emergency service delivery, including mutual aid, for the relief of danger to life or property from accident, explosion or natural disaster.

K. The Department Chief is authorized to enter into agreements, contracts and working arrangements with other units of government for implementing and administering the provisions of this ordinance following approval of the Board of County Commissioners.

L. The Department Chief is authorized to arrange communications systems and networks necessary to adequately alert, dispatch and/or communicate with facilities, equipment and personnel within Sierra County for the purpose of responding to fires, accidents, medical emergencies, explosions and natural disasters.

ARTICLE 9: RESPONSIBILITIES AND AUTHORITIES OF OTHER DEPARTMENT PERSONNEL

The Department Chief shall have the power and authority to deputize willing officers of the department to perform as official agents of the department including the supervision of volunteer personnel as may be deemed necessary for the protection of the

health, welfare and safety of the residents of the County and for the enforcement of codes and ordinances.

ARTICLE 10: PROCEDURE FOR ADOPTION OF DEPARTMENT RULES AND REGULATIONS

Any Department's proposed rules and regulations, as well as modifications to any existing rules and regulations, shall be forwarded to the County Manager for review. The County Manager will review the modifications and report findings to the Board of County Commissioners. The Board of County Commission shall, through resolution, approve or disapprove any and all Department Rules and Regulations.

ARTICLE 11: DISCIPLINE AND REMOVAL OF MEMBERS

A. Detrimental and Improper Conduct

Each member shall be held accountable and responsible for his/her individual actions. No officer or member of the Department shall be exempt from these requirements. In cases where County property, other department members or citizens or their property are at risk because of the members actions, the Department Chief and/or the County Manager shall put the member on immediate suspension until a hearing is held and a decision is rendered pursuant to this Ordinance.

The following is an non-exhaustive list of conduct that shall be considered conduct detrimental to the welfare and operation of the Department and shall be cause for disciplinary action up to and including immediate suspension and/or dismissal.

Insubordination (Failure to follow a direct order of a superior officer);
Failure to perform his/her duty;
Dereliction of duty;
Failure to follow county's standards, policies and procedures and/or a Chief's/Officer's directive;
Performing any membership function while under the influence of alcohol, controlled substances and/or mind-altering substances;
Negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
Negligence or failure to adhere to established safety rules or regulations
Willful unsafe conduct;
Misuse or Department funds; mismanagement;
Conduct unbecoming an officer or member of the Department;
Sexual misconduct/harassment;
Actions that unnecessarily endanger the member, other members, and/or the public;
Failure to Supervise; and
Any action that brings disrepute to the Department.

B. Disciplinary Process

The Department subscribes to the concept of progressive discipline and it should be practiced as a corrective measure whenever possible. However, there are instances when a disciplinary action, including immediate dismissal, is appropriate without first having imposed a less severe form of discipline.

Oral Warning/Reprimand:

An oral warning or reprimand is used to correct minor infractions of performance, conduct or behavior. Members should be notified that further instances may require additional progressive discipline.

Written Reprimand:

A member shall receive a written reprimand when an infraction is of a greater degree of seriousness than that for which an oral reprimand may be used, or if a previous oral warning/reprimand was not effective as a corrective action.

Step 1: The Department Chief shall initiate an investigation to gather information regarding the infraction and shall appoint a department officer to assist in the investigation. The department officer shall obtain written statements from the offending member and any witnesses as part of the investigation process.

Step 2: The officer and Department Chief should meet with the member to review the information and allow the member an opportunity to respond verbally or in writing.

Step 3: If the allegations are substantiated, the officer shall review the information with the Department Chief to determine the appropriate disciplinary action to be taken.

Step 4: The officer and Department Chief shall meet with the member to issue the written reprimand. The member should be asked to sign the document to acknowledge receipt. The member's signature does not necessarily indicate concurrence with the content. If the member refuses to sign the document, the Department Chief and officer will date and sign the document to verify reprimand was issued, in person, to the member. A copy of the reprimand should be placed in the member's file.

Examples of Infractions Requiring Corrective Action

The following instances are a non-exhaustive list that warrants the initiation of a formal disciplinary process:

Failure of a member to attend required meetings, trainings or to respond to emergency responses as required to maintain the member's status in the Department;
Failure to follow the requirements of a previous disciplinary action;
Willful Misuse or abuse of Department equipment or apparatus;
Misuse or abuse of Department insignia, identification, or privilege;
Interference with the duties of a law enforcement officer; as specified by State Fire Marshall Regulations

Misrepresentation of authority and/or any act that implies an inappropriate level of authority and/or intimidates a member of the public;
Misuse or abuse of communication equipment and/or violating Department's communication standards;
Failure to report damage to any station, Department vehicle or equipment caused by the member or another member of the Department;
Willful falsification of Department or District records or reports;
Theft of, unapproved appropriation of, or modification to, Department equipment, vehicles, stations, records or supplies;
Failure to follow and/or comply with state and county procurement codes, rules and regulations;
Misrepresentation of qualifications, level of training or licensure or experience;
Harassment (physical, mental or sexual) of another member of the Department;
Negligent damage to property and/or person(s) misuse or abuse of Department equipment or apparatus;
Failure to report duty injuries, accidents or vehicle collisions;
Unauthorized use or abuse of County property (e.g. cell phones, vehicles, equipment);
Fighting while on-duty or on County property;
Failure to report loss of driver's license;
Operation of a County vehicle or a private vehicle while on fire department business without a valid driver's license;
Acceptance of a bribe or kick-back;
Use of official position or authority for personal profit or advantage;
Theft or destruction of County property;
Being convicted of a felony or misdemeanor which would effect the operational efficiency or moral of the department; and
Lying to a superior officer.

C. Return of Property. A member must return all County property within 10 days of their separation or resignation. If a member is released from volunteer service for cause, they are not eligible to return to any County Fire Department for 5 years.

D. Formal Grievance and Appeal Process

This formal grievance and appeal process is applicable for disciplinary actions that include suspension, demotion or dismissal from the Department. Members, who have completed the one-year probationary period, have the right to the grievance and appeal process.

1. Request for Hearing

The member shall file a formal written request for hearing with the Chief of the Department within three (3) working days of receipt of the disciplinary action.

2. Schedule Hearing

Within seven (7) working days of receipt of the written request, the County Manager shall schedule a hearing date, time and location to hear the aggrieved.

3. Hearing

The County Manager, or her designated hearing officer, shall hear the aggrieved and the evidence and information provided by the Department Chief. If a hearing officer has heard the aggrieved, a written recommendation shall be forwarded to the County Manager within 24 hours.

4. Decision

The County Manager shall then have three (3) days to consider the information and render a written decision to the aggrieved and the Department Chief. The decision of the County Manager is final and cannot be appealed, except as provided by NMSA 1978 Section 39-3-1.1 (1999).

E. Removal of Department Fire Chief

Department Fire Chiefs may be removed from office by either a majority vote of the Board of County Commissioners held pursuant to the requirements of NMSA 1978 Section 10-15-1 et. seq, or by the County Manager, serving as representative of Board of County Commissioners.

F. Criminal Charges or Convictions

In general, the private life of a member of the Department is considered personal and outside the jurisdiction and authority of the county. However, when a member's action or behavior may have a detrimental effect on the Department, another member of the Department, or the County, or when an applicant has applied for membership, such action and/or behavior shall be considered when reviewing an application for membership, or the corrective or disciplinary action or termination of that member.

Any criminal conviction occurring prior to application for membership must be disclosed by the applicant at the time of application. The information will be considered confidential by the Department and will not be shared unless it is considered to be public information by state statute, by the State Attorney General, by the County Attorney or by court of law. It should be noted that any individual who has been convicted of a crime and has subsequently served his/her sentence has the right to be considered for membership by the Department. However, the Department reserves the right to use past criminal conduct, behavior and/or conviction as a reason to deny an application for membership to the extent permitted by law.

ARTICLE 12: FIRE INVESTIGATION

All Fire Department personnel responding to emergency fire service call and/or providing fire suppression, protection of scene contamination, regardless of level of training or education, shall do so only under the prior authorization, training and supervision of the Department Chief or duly authorized agency.

ARTICLE 13: LOCATION OF EQUIPMENT

The quality of life of the citizens of Sierra County requires the ability of its Volunteer Fire Departments to swiftly and immediately respond to fires throughout the County upon a moment's notice. For this reason, it is required that all equipment and resources not presently being utilized (excluding equipment being services or repaired outside the boundaries of the district) to provide the relief of danger to life or property, or for training, remain at the fire station to which it is assigned. A violation of this Article will be deemed an abuse of willful Misuse or abuse of Department equipment or apparatus and will be cause for disciplinary action.

ARTICLE 14: SEVERABILITY

If any article, sub-article, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners of the County of Sierra hereby declares that it would have passed this ordinance and each article, sub-article, sentence, clause, word, or phrase thereof, irrespective of the fact that any one or more Articles, sub Articles, sentences, words or phrases be held unconstitutional or otherwise invalid.

ARTICLE 15: EFFECTIVE DATE

This Ordinance shall take effect and be in force thirty days after it is recorded by the County Clerk in the book kept by the county for that purpose.

APPROVED, ADOPTED, AND PASSED on this the _____ day of November, 2011.

BOARD OF COUNTY COMMISSIONERS

Walter C. Armijo, Chair

Alvin J. Campbell, Vice-Chair

Bobby J. Allen, Member

Attest:

Connie Greer, County Clerk

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